



Sean T. O'Kelly, Esq.  
sokelly@okorlaw.com  
Direct: (302) 778-4001

October 15, 2021

**Via CM/ECF**

The Honorable Maryellen Noreika  
United States District Court  
J. Caleb Boggs Federal Building  
844 N. King Street  
Wilmington, DE 19801-3555

*Re: First Wheel Management, Limited v. Inventist, Inc., and Shane Chen (1:17-cv-1059 MN)*

Dear Judge Noreika:

I write on behalf of Plaintiff, First Wheel Management, Ltd. ("First Wheel"), to respectfully request that the Court postpone the pretrial and trial dates in this matter due to travel restrictions in place as a result of the coronavirus pandemic. A pretrial conference is presently scheduled for November 22, 2021, with a jury trial tentatively set for the week of November 29, 2021. *See* D.I. 169, 155, 153. The parties have conferred and Defendants do not oppose this request<sup>1</sup>. However, the Parties agree that this request should not affect the forthcoming Motion to Strike (D.I. 171).

***The Reason for the Request for Postponement:***

The reasons for postponement remain essentially the same as they were when this issue arose earlier this year.<sup>2</sup> Travel by Plaintiff's witnesses (except for one) for trial is presently impossible. Of most importance, Timur Artemev and Azamat Sultanov, both key fact witnesses for Plaintiff First Wheel, are domiciled in the United Kingdom. Under the Presidential Proclamation dated January 25, 2021, non-citizens of the United States cannot enter into the country if they have been in the United Kingdom.<sup>3</sup> Your Honor may be aware that the U.S.

---

<sup>1</sup> As stated in the parties' joint letter when trial was rescheduled to November 29<sup>th</sup>, Defendants would prefer to proceed to reach a resolution in this case, but Defendants recognize the situation and cannot reasonably oppose First Wheel's request to postpone trial (D.I. 153).

<sup>2</sup> The issues surrounding the earlier postponement of trial are set forth in the parties' joint letter to the Court of May 27, 2021 (D.I. 153) and were discussed by the parties with the Court during the hearing on various Motions held on June 3, 2021 (D.I. 155 (transcript) at 59:7-64:23).

<sup>3</sup> <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/25/proclamation-on-the-suspension-of-entry-as-immigrants-and-non-immigrants-of-certain-additional-persons-who-pose-a-risk-of-transmitting-coronavirus-disease/>.

administration has recently announced that the entry bar may be lifted in “early November”.<sup>4</sup> As of this morning, the U.S. administration further announced that the date of lifting of the travel ban will be November 8, 2021. This announcement does little or nothing to relieve the uncertainty about First Wheel’s witnesses’ ability to travel to the U.S. in November. Their situation remains unchanged from when we addressed this topic early this year: they must still apply for entry visas at the U.S. Embassy in the U.K., and as of this morning, the Embassy remains closed for “non-exceptional” applications, with no appointments available.<sup>5</sup> This roadblock is only one in a list of potential problems, including the availability of flights at the relevant time given limited flight schedules and sharply increased demand for bookings in response to the recent announcement from the administration about early November. There are simply too many unknowns at this point, now only six weeks from the tentative trial period, to guarantee the availability of the witnesses for trial. In reality, First Wheel’s witnesses would need to travel well before the Thanksgiving holiday in the U.S., leaving at best a two week window in which to secure visas and make travel arrangements, assuming the travel ban is actually lifted on November 8.

***Remote Testimony:***

At the hearing on June 3, 2021, Your Honor raised the possibility of remote attendance by some witnesses.<sup>6</sup> Counsel for Shane Chen and Inventist highlighted the importance of the in-person attendance of Mr. Chen, in particular, in view of potential difficulty for the jury in understanding his testimony.<sup>7</sup> First Wheel has identical concerns about Timur Artemev’s testimony, as Mr. Artemev is Russian and speaks with a fairly heavy accent which may not be understood by remote communication. Accordingly, the parties remain opposed to key witness testimony by remote means.

Given that impediments to travel remain the same today as they were in June, the parties respectfully request that the pretrial conference and trial be postponed to the spring of 2022, and, assuming the present impediments to travel have resolved, rescheduled at a date convenient for the Court. Counsel are available at the Court’s convenience if Your Honor would like to discuss this request.

Sincerely,

/s/ Sean T. O’Kelly  
Sean T. O’Kelly, Esq.  
O’KELLY & O’ROURKE, LLC

---

<sup>4</sup> See, e.g. <https://www.usatoday.com/story/travel/news/2021/09/28/when-will-us-lift-travel-ban-europe-uk-november/5848058001/>; <https://www.reuters.com/world/uk/us-relax-travel-restrictions-passengers-uk-eu-november-source-2021-09-20/>.

<sup>5</sup> See <https://uk.usembassy.gov/visas/>; <https://uk.usembassy.gov/visas/u-s-visa-and-travel-faqs/>.

<sup>6</sup> D.I. 155 at 59:7-61:3.

<sup>7</sup> D.I. 155 at 60:24-61:3.